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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/699,378 | 10/30/2003 | Augusto A. Picozza | Sunhpro-2-4244 | 3020 |

7590 05/20/2004
Lawrence J. Shurupoff
Sunbeam Products, Inc.
2381 Executive Center Drive
Boca Raton, FL 33431

EXAMINER


LOFDAHL, JORDAN M

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3644

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/699,378 | Applicant(s) PICOZZA ET AL.  | |
| | Examiner Jordan Lofdahl | Art Unit 3644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/31/02</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to a sweat scraper, classified in class 119, subclass 623.
- II. Claims 16-18, drawn to method of overmolding , classified in class 30, subclass 1.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case process of invention II can be used to make a spatula.

During a telephone conversation with Lawrence Shuropoff on 5/12/04 a provisional election was made with traverse to prosecute the invention of a sweat scraper, claims 1-15. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curry (5690057) and further in view of Pedroso et al. (4211501)

As to claim 1, Curry discloses a device comprising a core made of resilient material (fig. 1) defining a scraper blade and a handle. Not disclosed is a sheath made of a second resilient material. Pedroso et al., however, discloses a scraper with a sheath made of a second resilient material (24). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Curry with a sheath of Pedroso et al. to create a means to change the resiliency of the device to help conform to very arcuate surfaces of the horse.

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As to claim 2, disclosed is a curved portion.

As to claim 3, disclosed is the sheath, as modified, covering a portion of the handle.

As to claim 4, disclosed is a polymer.

As to claim 5, the material capable of being a polypropylene.

As to claim 6, disclosed is a polymer.

As to claim 7, disclosed is a rubber.

As to claim 8, not disclosed is a silicon rubber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device with a silicon rubber; since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 9, not disclosed is the device mad of monomer rubber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of a monomer rubber; since it has been held to be within the

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general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 10, not disclosed is a vulcanate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of a vulcanate; since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 11, not disclosed is a monomer rubber and a polymer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of a monomer rubber and a polymer; since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 12, not disclosed is monomer rubber and a polypropylene. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of a monomer rubber and a polypropylene.; since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 13, disclosed is an elongated trough shaped blade.

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As to claim 14, disclosed is an interlock formed between the scraper and the sheath ('501, fig. 9).

As to claim 15, disclosed is a tongue and groove ('501, fig. 9).

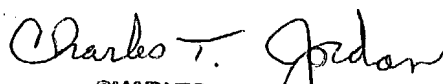
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703.306.4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jml


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